The Committee on Infrastructure and Security (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 316.305, Florida Statutes, is amended to read:

316.305 **Driving while distracted Wireless communications devices; prohibition.**

(1) This section may be cited as the “Florida Driving Ban on Texting While Distracted Driving Law.”
(2) For purposes of this section, the term:

(a) “Driving while distracted” means the inattentive operation of a motor vehicle. Inattentive or distracted driving conduct includes reading, writing, performing personal grooming, applying a beauty aid or similar products, interacting with pets or unsecured cargo, using a personal wireless communications device, or engaging in any other activity, conduct, task, or action that causes distraction.

(b) “Wireless communications device” means any handheld device that is designed or intended to receive or transmit text- or character-based messages, to record or view images, to access or store data, or to connect to the Internet or any text communications service, as defined in s. 812.15, or which allows communications. The term includes, but is not limited to, a cell phone, a tablet, a laptop, a two-way messaging device, or an electronic game that is used or capable of being used in a handheld manner. The term does not include a safety, security, or convenience feature built into a motor vehicle which does not require the use of a handheld device.

(3)(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of driving while distracted when operating text messaging while driving a motor vehicle.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.
(d) Authorize law enforcement officers to stop motor vehicles and issue citations as a secondary offense to persons who are texting while driving while distracted.

(4) (3) (a) A person may not operate a motor vehicle when driving while distracted while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle.
vehicle;
   b. Safety-related information, including emergency, traffic, or weather alerts;
   c. Data used primarily by the motor vehicle; or
   d. Radio broadcasts.

   4. Using a device or system in a hands-free manner for navigation purposes.

   5. Using a wireless communications device hands-free or hands-free in voice-operated mode, including, but not limited to, a factory-installed or after-market Bluetooth device

Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

   6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

6.7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

   (c) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027 personal injury, a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

   (d) Law enforcement officers must indicate the type of distraction in the comment section of the uniform traffic citation.
(5) (4) (a) Any person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation, as provided in chapter 318, and shall have 3 points assessed against his or her driver license as set forth in s. 322.27. For a first offense of this section, in lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates this section may elect to participate in a distracted driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived. Any person who violates paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(b) Any person who commits a second or subsequent violation of paragraph (3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(6) (5) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations of this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health. Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322.

Section 2. This act shall take affect October 1, 2019.
And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled
An act relating to driving while distracted; amending s. 316.305, F.S.; revising the short title; defining the term “driving while distracted”; redefining the term “wireless communications device”; revising legislative intent; prohibiting a person from operating a motor vehicle when driving while distracted; revising exceptions to such prohibition; revising crash results for which a user’s billing records for a wireless communications device or the testimony of or written statements from certain authorities are admissible as evidence; requiring that law enforcement officers indicate specified information in the uniform traffic citation; providing penalties for driving while distracted; authorizing participation in a distracted driving safety program for a first offense, in lieu of specified penalties; requiring the deposit of fines into the Emergency Medical Services Trust Fund; deleting a provision requiring that enforcement of this section be accomplished only as a secondary action; providing an effective date.